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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/691,778

10/23/2003

Jerry A. Pickering

10167

7165

7590 08/27/2007
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EXAMINER

AFZALI, SARANG

ART UNIT

PAPER NUMBER

3726

MAIL DATE

DELIVERY MODE

08/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/691,778</p>	<p>Applicant(s) PICKERING ET AL.</p>	
	<p>Examiner Sarang Afzali</p>	<p>Art Unit 3726</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 64-66, 69-71, 80, 81, 86 and 87.
Claim(s) withdrawn from consideration: 1-63, 67, 68, 72-79, 82-85 and 88.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


DAVID P. BRYANT
SUPERVISORY PATENT EXAMINER

8/23/07

Continuation of 3. NOTE: The Amendment to claim 64 in particular the incorporation of previously presented claim 81 limitation of "filler particles comprising polytetrafluoroethylene filler particles" into claim 64, raises new issues that would require further consideration and/or search. Note that all of the previously dependent claims 65, 69, 70, 86 and 87, which did not depend on the limitation of "polytetrafluoroethylene filler particles" of claim 81, would now depend on this limitation.

Applicant argues that " Eddy, at col. 6, lines 25-67 requires a thermally conductive filler be added to the outer fluoropolymer layer. The thermally conductive layer can be a metal oxide, preferably alumina. PTFE is not thermally conductive, thus Eddy teaches away from the present invention. Donnelley, at col. 4, line 71 to col. 5, line 15 teach that fillers for a fixing roller require a low surface energy and that conventional fillers of inorganic oxides have surface energies that are suitable. Thus, the teaching of Donnelley and Eddy are in opposition to one another. This does not provide a proper obviousness-type rejection."

The Examiner respectfully disagrees with the above argument. Note that Eddy et al. ('588) teach a whole array of different fluoroelastomers (col. 5, lines 28-59) that are also disclosed by the Applicant (Specification, paragraphs [0109]-[0115]) as suitable fluoroelastomers for fusing surface layer.

Although Eddy et al. ('588) teach that thermally conductive filler such as metal oxide is added to the fluoropolymer layer (col. 6, lines 25-27), but also teach that other filler particles such as silicon particles are added to the fluoropolymer layer in order to increase release of toner from the fuser member (col. 6, lines 5-7) and other fillers including coloring agents, reinforcing fillers, and processing aids may be incorporated in the layers provided that they do not affect the integrity of the fluoropolymer material (col. 7, lines 21-33). As such, Eddy et al. ('588) teach that many different fillers can be added to the fluoropolymer layer in order to improve certain characteristics of the layer.

Donnelley et al. teach a fuser roller wherein plastic filler particles such as polytetrafluoroethylene (col. 5, lines 8-16) is added to elastomer for its known release abilities, temperature resistance, and reinforcing properties.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to have used polytetrafluoroethylene with appropriate particle size as a filler for Eddy et al. ('588) in lieu of teaching of Donnelley et al., in order to provide an elastomer for a fuser roller with improved and effective characteristics such as high release abilities.

Note that Applicant argues that "PTFE is not thermally conductive" (Remarks, paragraph 3, lines 11-12) contrary to the Applicant's disclosure (specification, paragraph [044]) wherein "polytetrafluoroethylene" is taught to have some thermal conductivity.